

REMARKS:

Claims 3-4, 7-8, 11-12, and 17-19 are pending in the present Application. These claims stand rejected under 35 U.S.C. § 101 as being allegedly directed to non-statutory subject-matter. Claims 3-4 and 17 are amended herein. The Applicant respectfully requests reconsideration of the Application in light of the amendments and the following remarks.

I. Examiner Interview Summary

On May 14, 2008, the Applicant and his undersigned representative conducted a telephone Interview with the Examiner regarding the present Application. The Examiner and the undersigned discussed the Application and the prior art cited by the Examiner including U.S. Pat. No. 6,249,775 to Freeman (“Freeman”), and an article in Real Estate Finance by Han, Jun (“Han”). The Applicant appreciates the courtesy and assistance extended by the Examiner during this Interview.

During the Interview, the Applicant described his invention while his undersigned representative pointed out the differences between the claimed invention and the prior art. The Applicant demonstrated the differences between the prior art and the claimed invention through the use of two Examples. These Examples showed the deficiencies and problems with the prior art, and the Applicant’s representative explained how the claimed invention overcomes these deficiencies. The Examiner agreed during the Interview to withdraw the Office Action dated February 25, 2008, and issue a new office action, which is the current Office Action.

II. The Claimed Invention Is Directed To Statutory Subject Matter

A. Rejection of Claims 3-4 and 17 under 35 U.S.C. § 101

On page 2 of the Office Action, the Examiner rejected Claims 3-4, 7-8, 11-12, and 17-19 as being allegedly directed to non-statutory subject-matter. The Applicant respectfully traverses this rejection.

The Examiner states on page 2 of the Office Action that a process must “(1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing.” The Examiner asserts on page 3 of the Office Action that “in performing the steps of the claimed subject matter, there is no requirement that a machine be used, thus the claims are not considered sufficiently tied to another statutory class.” The Examiner goes on to argue that “[r]egarding the second test, since the claimed subject matter may be performed using only human intelligence, the steps do not sufficiently transform the underlying subject matter to be statutory. Thus, to qualify as a 101 statutory method, the claim should positively recite the other statutory class (the thing or product) to which it is tied.” *Id.*

In response to the Examiner’s rejection, Applicant has amended Claims 3-4 and 17 to recite “an automated” method, and added a recitation of computer hardware to specifically tie the claimed subject matter to a computer. Thus, amended Claims 3, 4, and 17 contain appropriate subject matter under 35 U.S.C. § 101 because they are a process as defined by 35 U.S.C. § 100(b). *See M.P.E.P. § 2106 (IV)(B) (8th ed. rev’d July 2008).* Furthermore, Claims 3, 4, and 17 are not abstract ideas, natural phenomena, or laws of nature covered by any of the judicial exceptions under 35 U.S.C. § 101 because the claims produce a useful, concrete, and tangible result. As the Examiner points out on page 4 of the Office Action, the claimed invention is useful because “the

prior art way of determining a financial asset services value to be paid to the service provider . . . leaves the provider worse off than the claimed invention way of determining a financial asset services value,” thus satisfying the utility requirement of 35 U.S.C. § 101. The claimed invention produces a tangible and concrete result because the application of a mathematical algorithm in the claimed invention is part of a process, and the process has repeatable and predictable results. *See* M.P.E.P. § 2106 (IV)(C)(2). Support for the claim amendments can be found in at least paragraphs [0032]-[0039] and Figures 2a and 2b.

Since the Examiner indicates on page 2 of the Office Action that “Claims 3-4, 7-8, 11-12, and 17-19 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. § 101,” the Applicant respectfully submits that the Application is in condition for allowance based on the amendments to Claims 3, 4, and 17. Therefore, the Applicant respectfully requests that the rejection of Claims 3, 4, and 17 under 35 U.S.C. § 101 be withdrawn, and the Application be allowed and passed to issue.

B. Dependent Claims 7-8, 11-12, and 18-19

Claims 7-8, 11-12, and 18-19 depend on Claims 3, 4, and 17, which have been shown to be directed towards statutory subject matter. The Applicant submits that by virtue of their dependency on Claims 3, 4, and 17, Claims 7-8, 11-12, and 18-19 are also directed to statutory subject matter. The Applicant therefore respectfully requests that the rejection of Claims 7-8, 11-12, and 18-19 under 35 U.S.C. § 101 be withdrawn and the Application be allowed and passed to issue.

III. Conclusion:

For at least the reasons set forth above, the Applicant respectfully submits that Claims 3-4, 7-8, 11-12, and 17-19 are in condition for allowance. The Applicant therefore respectfully requests that the present Application be allowed and passed to issue.

Should the Examiner believe anything further is desirable in order to place the Application in even better condition for allowance, the Examiner is invited (and encouraged) to contact the Applicant's undersigned representative.

Respectfully submitted,

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